

SENATE BILL NO. 533—COMMITTEE ON NATURAL RESOURCES

MARCH 26, 2001

Referred to Committee on Natural Resources

SUMMARY—Authorizes control officer of local air pollution control board to request initiation of certain proceedings regarding enforcement of certain laws pertaining to control of air pollution. (BDR 40-1296)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to the control of air pollution; authorizing the control officer of a local air pollution control board to request the initiation of certain proceedings regarding the enforcement of certain laws pertaining to the control of air pollution; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 445B.460 is hereby amended to read as follows:
2 445B.460 1. If , in the judgment of the director ~~+~~ ***or the control***
3 ***officer of a local air pollution control board,*** any person is engaged in or
4 is about to engage in any act or practice which constitutes or will constitute
5 a violation of any provision of NRS 445B.100 to 445B.640, inclusive, or
6 any rule, regulation, order or operating permit issued ~~under~~ ***pursuant to***
7 NRS 445B.100 to 445B.640, inclusive, the director ***or the control officer***
8 may request ***that*** the attorney general ~~to~~ apply to the district court for an
9 order enjoining ~~such~~ ***the*** act or practice, or for an order directing
10 compliance with any provision of NRS 445B.100 to 445B.640, inclusive,
11 or any rule, regulation, order or operating permit issued ~~under~~ ***pursuant***
12 ***to*** NRS 445B.100 to 445B.640, inclusive.
13 2. Upon a showing by the director ***or the control officer*** that ~~such~~ ***a***
14 person has engaged in or is about to engage in any such act or practice, a
15 permanent or temporary injunction, restraining order or other appropriate
16 order may be granted by the court.
17 **Sec. 2.** NRS 445B.470 is hereby amended to read as follows:
18 445B.470 1. A person shall not knowingly:
19 (a) Violate any applicable provision, the terms or conditions of any
20 permit or any provision for the filing of information;
21 (b) Fail to pay any fee;



1 (c) Falsify any material statement, representation or certification in any
2 notice or report; or

3 (d) Render inaccurate any monitoring device or method,
4 required pursuant to the provisions of NRS 445B.100 to 445B.450,
5 inclusive, or 445B.470 to 445B.640, inclusive, or any regulation adopted
6 pursuant to those provisions.

7 2. Any person who violates any provision of subsection 1 shall be
8 punished by a fine of not more than \$10,000 for each day of the violation.

9 3. The burden of proof and degree of knowledge required to establish a
10 violation of subsection 1 are the same as those required by 42 U.S.C. §
11 7413(c), as that section ~~exists~~ *existed* on October 1, 1993.

12 4. If, in the judgment of the director of the department, ~~to~~ his
13 designee ~~to~~ *or the control officer of a local air pollution control board*,
14 any person is engaged in any act or practice which constitutes a criminal
15 offense ~~under~~ *pursuant to* NRS 445B.100 to 445B.640, inclusive, the
16 director of the department, ~~to~~ his designee *or the control officer* may
17 request ~~that~~ *that*:

18 (a) *The* attorney general; or ~~the~~

19 (b) *The* district attorney of the county in which the criminal offense is
20 alleged to have occurred, ~~to~~

21 institute by indictment or information a criminal prosecution of the person.

22 **Sec. 3.** NRS 445B.500 is hereby amended to read as follows:

23 445B.500 1. Except as otherwise provided in this section and in NRS
24 445B.310:

25 (a) The district board of health, county board of health or board of
26 county commissioners in each county whose population is 100,000 or more
27 shall establish a program for the control of air pollution and administer the
28 program within its jurisdiction unless superseded.

29 (b) The program must:

30 (1) Include standards for the control of emissions, emergency
31 procedures and variance procedures established by ordinance or local
32 regulation which are equivalent to or stricter than those established by
33 statute or state regulation; and

34 (2) Provide for adequate administration, enforcement, financing and
35 staff.

36 (c) The district board of health, county board of health or board of
37 county commissioners is designated as the air pollution control agency of
38 the county for the purposes of NRS 445B.100 to 445B.640, inclusive, and
39 the federal act insofar as it pertains to local programs, and that agency is
40 authorized to take all action necessary to secure for the county the benefits
41 of the federal act.

42 (d) Powers and responsibilities provided for in NRS 445B.210,
43 445B.240 to ~~445B.450~~ *445B.470*, inclusive, 445B.560, 445B.570,
44 445B.580 and 445B.640 are binding upon and inure to the benefit of local
45 air pollution control authorities within their jurisdiction.

46 2. The local air pollution control board shall carry out all provisions of
47 NRS 445B.215 with the exception that notices of public hearings must be
48 given in any newspaper, qualified pursuant to the provisions of chapter 238
49 of NRS, once a week for 3 weeks. The notice must specify with



1 particularly the reasons for the proposed regulations and provide other
2 informative details. NRS 445B.215 does not apply to the adoption of
3 existing regulations upon transfer of authority as provided in NRS
4 445B.610.

5 3. In a county whose population is 400,000 or more, the local air
6 pollution control board may delegate to an independent hearing officer or
7 hearing board its authority to determine violations and levy administrative
8 penalties for violations of the provisions of NRS 445B.100 to 445B.450,
9 inclusive, and 445B.500 to 445B.640, inclusive, or any regulation adopted
10 pursuant to those sections. If such a delegation is made, 17.5 percent of any
11 penalty collected must be deposited in the county treasury in an account to
12 be administered by the local air pollution control board to a maximum of
13 \$17,500 per year. The money in the account may only be used to defray the
14 administrative expenses incurred by the local air pollution control board in
15 enforcing the provisions of NRS 445B.100 to 445B.640, inclusive. The
16 remainder of the penalty must be deposited in the county school district
17 fund of the county where the violation occurred.

18 4. Any county whose population is less than 100,000 or any city may
19 meet the requirements of this section for administration and enforcement
20 through cooperative or interlocal agreement with one or more other
21 counties, or through agreement with the state, or may establish its own
22 program for the control of air pollution. If the county establishes such a
23 program, it is subject to the approval of the commission.

24 5. No district board of health, county board of health or board of
25 county commissioners may adopt any regulation or establish a compliance
26 schedule, variance order or other enforcement action relating to the control
27 of emissions from plants which generate electricity by using steam
28 produced by the burning of fossil fuel.

29 6. For the purposes of this section, "plants which generate electricity
30 by using steam produced by the burning of fossil fuel" means plants that
31 burn fossil fuels in a boiler to produce steam for the production of
32 electricity. The term does not include any plant which uses technology for
33 a simple or combined cycle combustion turbine, regardless of whether the
34 plant includes duct burners.

35 **Sec. 4.** This act becomes effective on July 1, 2001.

